

CITY COUNCIL AGENDA ITEM COVER MEMO

FOR AGENDA OF COUNCIL MEETING/WORK SESSION - DATE : June 14, 2012

ACTION REQUESTED BY: Huntsville Utilities

SUBJECT MATTER : TVA Agreement

EXACT WORDING FOR AGENDA: Resolution authorizing the Mayor to execute an agreement between the City of Huntsville and TVA allowing for repayment of Enhanced Growth Credits (EGC) mistakenly applied for April through December 2011 for Dynetics Inc. (Utilities: Electric)

ORDINANCE: **RESOLUTION:** X **MOTION:**

(IF AMENDMENT, STATE TITLE AND NUMBER OF ORIGINAL): N/A

ITEM IS TO BE CONSIDERED FOR:

INTRODUCTION: **ACTION:** X **DISCUSSION:**

UNANIMOUS CONSENT REQUIRED? No

BRIEFLY STATE WHY THE ACTION IS REQUESTED; WHY IT IS RECOMMENDED OR NOT RECOMMENDED; WHAT COUNCIL ACTION WILL PROVIDE, ALLOW, OR ACCOMPLISH; ANY ASSOCIATED COST; BUDGETED (?); AND ANY OTHER INFORMATION THAT YOU THINK MIGHT BE HELPFUL. Approval of this resolution will authorize the Mayor to execute an agreement between the City of Huntsville and TVA allowing for repayment of Enhanced Growth Credits (EGC) mistakenly applied for April through December 2011 for Dynetics Inc.

MAYOR RECOMMENDS OR CONCURS? YES _____ NO _____ N/A _____

SIGNATURE: William C. Pippin, President & CEO

DATE: May 25, 2012

RESOLUTION NO. 12-_____

WHEREAS, the City of Huntsville, Alabama (hereinafter referred to as Distributor), and Tennessee Valley Authority (hereinafter referred to as TVA), have heretofore entered into Power Contract TV54501A, dated May 26, 1980, as amended (which contract is hereinafter called the Power Contract); and

WHEREAS, Dynetics, Inc. (hereinafter referred to as Company), Distributor and TVA wish to modify the existing Enhanced Growth Credit Participation Agreement (EGC Agreement); and

WHEREAS, Company, Distributor and TVA wish to enter into an agreement confirming the understanding of Distributor's adjustments to Company's wholesale bill and repayment of shortage with respect to Distributor providing service to Company under the EGC Agreement;

WHEREAS, there is now presented to the City Council of the City of Huntsville, Alabama, a proposed tri-party agreement instituting the Enhanced Growth Credit Participation Agreement to be effective upon the date executed by TVA, with the representation that the said agreement has been approved by the Huntsville Electric Utility Board.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that it does hereby approve the aforesaid tri-party Agreement and Tommy Battle, as Mayor of the City of Huntsville, Alabama, be, and he is authorized to execute said tri-party Agreement for and on behalf of the City of Huntsville, Alabama, and the Clerk-Treasurer be and he is hereby authorized to attest the same and to affix thereto the seal of the City of Huntsville, Alabama, all in as many counterparts as may be necessary.

BE IT FURTHER RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into a letter agreement by and between the City of Huntsville, the Tennessee Valley Authority and Dynetics, Inc., on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Enhanced Growth Credit Participation Agreement Among Dynetics, Inc., City of Huntsville, Alabama and Tennessee Valley Authority," consisting of 2 pages and the date of _____, 2012, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the ____ day of _____, 2012.

President of the City Council of the
City of Huntsville, Alabama

APPROVED this the ____ day of _____, 2012.

Mayor of the City of Huntsville,
Alabama



Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902-1401

April 16, 2012

TV-54501A, Supp. No. 107

Mr. William C. Pippin
President and CEO
Huntsville Utilities
Post Office Box 2048
Huntsville, Alabama 35804-2048

Dear Mr. Pippin:

This letter is to confirm the understanding between City of Huntsville, Alabama (Distributor), and Tennessee Valley Authority (TVA) with regard to adjustments to Distributor's wholesale bill to reflect a correction in billing credits provided by Distributor to Dynetics, Inc. (Company), under an Enhanced Growth Credit (EGC) Participation Agreement between Distributor and Company.

It is recognized that Company, Distributor, and TVA have entered into an agreement of even date herewith which, among other things, provides for Company to repay Distributor the amount of \$454.43, representing the amount of EGC billing credits that were incorrectly applied to Company's retail bill. It is further recognized that, in accordance with the Enhanced Growth Credit Program Agreement between Distributor and TVA numbered TV-54501A, Supp. No. 37, and dated May 5, 1994, Distributor received credits on its wholesale power bills equal to 110 percent of the total retail credits that were applied by Distributor.

Accordingly, the parties agree that:

1. On Distributor's first Electric Sales Statistics (ESS) Report following the effective date of this agreement, Distributor shall submit an adjustment to its EGC report that reflects the amount of retail credits overpaid by Distributor to Company.
2. Upon receipt of Distributor's ESS Report, Distributor's wholesale bill for the following month shall include a charge equal to 110 percent of \$454.43.

This agreement shall become effective as of the date accepted and agreed to by TVA below and remains in effect until all obligations of the parties under this agreement have been fulfilled.

Mr. Pippin
Page 2
April 16, 2012

If this letter correctly reflects our understanding on this matter, please have a duly authorized representative of Distributor execute and date the three duplicate originals of this letter and return them to TVA for further processing. Upon completion by TVA, two fully executed duplicate originals will be returned to you for your files.

Accepted and agreed to as of ____ day
of _____, 2012.

TENNESSEE VALLEY AUTHORITY

By _____
Title:

Accepted and agreed to as of ____ day
of _____, 2012.

CITY OF HUNTSVILLE, ALABAMA

By _____
Title: